

REMARKS

Claims 1-26 are pending in the current application. The Examiner has indicated allowable subject matter in claims 8-14, 17-19, 23, 24, and 26, and the Applicants thank the Examiner for so noting. Claims 1-7, 15, 16, 20, 21, 22, and 25 are currently rejected, and Applicants traverse the rejections on the following grounds.

Rejections under 35 U.S.C. § 102(e) (Lu)

Claims 1-3, 15, 16, and 20 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. 6,519,416 to Lu et al. (“Lu”). Applicants respectfully traverse this rejection. The Examiner continues to state that Lu discloses all elements of independent claims 1, 15, and 20. Applicants respectfully submit that the Examiner is still failing to meet the “adapting at least one target Quality of Service (QoS) characteristic in response to a load condition” step recited in the claims. The Examiner’s initial rejection and reply to Applicants’ previous amendment addresses only dynamic resource allocation and measurement, which may be taught by Lu. However, resource allocation and QoS requirements are distinct, and even if Lu discloses non-static resource allocation, Lu’s QoS requirements do not change. Rather, **Lu requires that the QoS requirement be static** and met by the initial allocation of system resources, after which excess resources are distributed without any change to the QoS requirements. See Lu Col 2, ll. 1-4, 17-18, 32-36; Col 3, ll. 14-15; and Col. 7, ll. 34-38. This is the exact opposite of “adapting at least one target Quality of Service (QoS).” Further, because Lu does not teach or suggest a QoS adapting, it cannot disclose doing so based on a load condition, as recited by the claims’ adaptation being “in response to a load condition,” even if Lu does simply measure the load conditions.

Because Lu does not teach or suggest all the features of claims 1, 15, and 20, Lu cannot anticipate or render obvious these claims. Dependent claims 2, 3, and 16, which

depend from an allowable base claim 1 or 15, are allowable for at least the amendments and reasons discussed above with regard to claims 1, 15, and 20. Applicants respectfully request withdrawal of this rejection.

Rejections under 35 U.S.C. § 103(a) (Lu in view of Joshi/Achour/Mudigonda)

Claims 4-7, 21, 22, and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of U.S. Pat Pub. 2004/0143842 to Joshi ("Joshi"), U.S. Pat. Pub. 2003/0060208 to Achour et al. ("Achour"), and/or U.S. Pat. Pub. 2004/0176060 to Mudigonda et al. ("Mudigonda"). Applicants respectfully traverse this ground of rejection.

Joshi, Achour, and Mudigonda do not make up for the suggestion and disclosure deficiencies discussed above with regard to Lu. Specifically, none of these references teach or suggest adapting QoS based on a load condition. Therefore, Joshi, Achour, and Mudigonda, alone or in combination with Lu, do not disclose or fairly suggest the limitations of independent claims 1, 15, or 20. Claims 4-7, 21, and 25 are allowable at least by virtue of their dependency on independent claims 1, 15, or 20. Applicants respectfully request the Examiner withdraw this rejection.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-26 in connection with the present application is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



Gary D. Yacura, Reg. No. 35,416

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/REA